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TAGS: [ECON](#) [KIPR](#) [HR](#) [INTELLECTUAL](#) [PROPERTY](#)

SUBJECT: CROATIA 2007 SPECIAL 301 RECOMMENDATION

REF: A) STATE 7944, B) ZAGREB 100, C) ZAGREB 164, D) ZAGREB 175, E)

06 STATE 184074

¶1. (SBU) Summary and Recommendation: In light of the recent establishment of a mechanism of patent linkage and improving enforcement of IPR generally, Post recommends that Croatia be removed from the Special 301 Watch List this year. Special 301 was a useful tool for effecting improvements in Croatia's IP regime. It is now time to acknowledge that improvement and remove Croatia from the Watch List. End Summary.

Pharmaceutical Patent Protection In Place

¶2. (SBU) With the recent establishment of a system of coordination between its Drug Agency and the State Office for Intellectual Property, the GOC has taken the remaining step necessary to close the gap in its IP regime for pharmaceuticals (see Ref D). Together with its 2004 data protection legislation, patent linkage means that a repetition of past infringements of pharmaceutical patents is unlikely. Post is not aware of any recent case of pharmaceuticals being unlawfully placed on the market, which is borne out by the fact that PHARMA did not prepare a submission on Croatia for this 301 cycle.

Enforcement Improving

¶3. (SBU) Croatia's patent authority, the State Office for Intellectual Property is activist and professional. The GOC is encouraging economic reform policies to develop Croatia's "knowledge economy" and seems to be fully cognizant of the fact that a strong IP regime is one of the foundations of such an effort. Consequently, we have seen an across the board improvement in IP protection over the last year. More people were arrested and charged for IP-related crimes in 2006 than in any previous year and more people sentenced by the judicial system, including imprisonment (see Ref C). At the same time, a system of surcharges on recordable media was introduced to offset losses incurred by illegal copying of audio-visual IP (see Ref B).

How 301 Was Ultimately Successful in Croatia

¶4. (SBU) Croatia has made a lot of progress on IPR in recent years, which is visible in its enforcement statistics. In the case of Special 301, the Embassy was able to use this as a lever to establish needed communication between the Drug Agency and the State Office for Intellectual Property. Although reaction to Croatia's annual 301 listing was usually quite dismissive at the official level, with our interlocutors noting "that at least Croatia is in good company, given all the other countries included on the list", the desire to get Croatia off the list ultimately overcame resistance. The effective message for the GOC was that although an individual listing may not be highly significant, the larger message

sent to potential investors can be damaging. The simple fact that Croatia was included among a list of serious IP violators had the potential to reinforce an impression that this is a country where investments are not protected by the law. We told the GOC that the cost of closing the gap in the protection of pharmaceutical patents was essentially nothing, but the cost of doing nothing was potentially high. This message ultimately got through and was successful.

Time to Remove Croatia from 301 Watch List

15. (SBU) Croatia's IP regime is not perfect; this is still a young democracy with significant deficiencies in its legal system. However, the GOC has taken the right steps on IPR. Most industry groups here concur with this view and consider Croatia an IPR bright spot in this region. Now is the time to acknowledge this progress and remove Croatia from the Special 301 Watch List.
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